

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES BREWER, individually and on
behalf of all other similarly situated current
and former employees of Defendant,

Plaintiffs,

v.

GENERAL NUTRITION CORPORATION,
Defendant.

Case No. 11-cv-3587 YGR

**PRETRIAL ORDER NO. 1 RE: INITIAL
PRETRIAL CONFERENCE**

Having considered the filings to date and the arguments and other submissions at the
Pretrial Conference, held on October 9, 2015, for good cause shown the Court enters the following
orders:

1. **Trial Date and Schedule:** The trial will proceed in Courtroom 1. Counsel shall
arrive in court early enough to proceed promptly at 8:00 a.m. Trial schedule with
the jury will be Monday through Friday, from 8:30 a.m. to 1:30 p.m. with two
fifteen minute breaks. The trial of this matter is **continued to** February 1, 2016,
beginning at 8:00 a.m. Trial time will be 25 hours per side including opening
statements and closing arguments, but excluding time for jury selection.
2. **Additional Time To Resolve Issues Outside of Trial Day:** Additional time may
be scheduled for matters outside the presence of the jury as necessary and
determined by the Court. Sidebars are not permitted. Counsel should be prepared
to anticipate issues so that they may be addressed outside of normal trial hours. In
this regard, Counsel should also be prepared to reconvene with the Court after the
Court's standing calendars which normally begin at 2:00 p.m.
3. **Standard Motions in Limine:** The Court hereby orders that: (a) witnesses shall be

excluded until testimony is completed; (b) there shall be no reference to or evidence presented of settlement discussions, mediation, or insurance; and (c) there shall be no reference to or evidence presented of wealth or lack thereof of any party except in the punitive damage phase of a case, to the extent it exists.

The Court's rulings on the parties' motions *in limine* will issue by separate order.

4. **Admonishing Witnesses:** Parties are ordered to admonish witnesses of the Court's rulings. Failure to comply with a ruling by the Court may result in sanctions including, without limitation, the striking of the witness's entire testimony.
5. **Procedural Stipulations:** Attached hereto as Exhibit A is an outline of stipulations. To the extent agreed upon, the parties shall file said document by **November 3, 2015**.
6. **Witnesses:** The parties are limited to calling the witnesses submitted on the list filed for the Pretrial Conference. Upon a showing of good cause, including for rebuttal or impeachment purposes, additional witnesses will only be allowed by Court order.
7. **Evidence in Digital Format:** The court has available in each courthouse a computer specially configured to allow jurors to view evidence in digital formats. Please refer to <http://cand.uscourts.gov/jurypc> for further information and technical specifications. Parties shall meet and confer regarding the use of such tools for deliberations and its impact on the presentation of evidence.
8. **Other Orders:**
 - a. GNC's pending decertification and *Daubert* motions are **SET** for hearing on **November 3, 2015, at 2:00 p.m.;**
 - b. in connection with their response to Defendant's Motion *in Limine* ("MIL") No. 4, Plaintiffs shall file a statement demonstrating how they previously disclosed a calculation of the damages on the individual off-the-clock claims to be tried no later than Friday, **October 16, 2015;**


c. in connection with Defendant's MIL No. 7, GNC shall lodge with the Court copies of the exhibits at issue no later than Friday, **October 16, 2015**;

d. in connection with Plaintiff's MIL No. 4, GNC shall submit a supplemental response of no more than **two** pages addressing the hearsay issue by Friday, **October 16, 2015**, and Plaintiff shall file a reply of no more than **two** pages by Friday, **October 23, 2015**;

e. in connection with Plaintiff's MIL No. 8, the parties shall meet and confer and submit a joint statement or stipulation regarding their proposed resolution of the issue no later than Friday, **October 23, 2015**.

IT IS SO ORDERED.

Dated: October 14, 2015


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE